

CITATION: Re: 1000156489 ONTARIO INC, 2026 ONSC 610
COURT FILE NO.: CV-22-00691990-00CL
DATE: 20260130

ONTARIO SUPERIOR COURT OF JUSTICE

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT
ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF 1000156489 ONTARIO INC. Applicant,

BEFORE: FL Myers J

COUNSEL: *Marleigh Dick and Martino Calva Ruso*, for the Monitor
Susan Ursel, for the Actuarial Solutions Inc.

HEARD: January 30, 2026

ENDORSEMENT

- [1] The Monitor reports that pension issues have been resolved finally. Ms. Ursel confirms. This leaves about 7 cents on the dollar available for the Monitor to distribute to unsecured creditors of the debtor.
- [2] The Monitor proposes a \$500,000 holdback for any final administrative costs.
- [3] I am satisfied that distribution by the Monitor under its extended powers in this liquidating CCAA proceeding is fair, reasonable, and appropriate. It would be the height of technicality and a waste of money to require the proceeding to be converted to a receivership or a bankruptcy just so the same entity, Alvarez & Marsal Canada Inc., can change its title and make the same distributions.
- [4] I have reviewed the Monitor's Eleventh Report dated January 26, 2026 and the fee materials included therein. I am satisfied that the Monitor's activities and its fees (including those of its counsel) are fair and reasonable and ought to be approved as sought.

- [5] I do not see a basis however, for the relief sought at para. 15 of the draft distribution order purporting to exempt the Monitor from statutes like the *Income Tax Act*, the *Excise Tax Act*, the CPP, and provincial tax laws that require representatives of taxpayers to pay and withhold tax appropriately on distributions.
- [6] These laws are intended to ensure that tax is paid or withheld where a representative acts for a taxpayer, including in receivership.
- [7] The draft order sought provides:
15. THIS COURT ORDERS that any distribution of funds or payments made in accordance with this Order shall not constitute a "distribution" and the Monitor shall not constitute a "legal representative" or "representative" or similar person in respect of the Company for the purposes of Section 159 of the Income Tax Act (Canada), Section 270 of the Excise Tax Act (Canada), Section 86 of the Employment Insurance Act (Canada), Section 23 of the Canada Pension Plan, Section 22 of the Retail Sales Tax Act (Ontario), Section 107 of the Corporations Tax Act (Ontario), or any other similar federal, provincial or territorial tax legislation in Canada that the Company conducted business in (collectively, the "Statutes"), and the Monitor in making any such payment or deliveries of funds in accordance with this Order is not "distributing", nor shall it be considered to have "distributed", such funds or assets for the purposes of the Statutes, and the Monitor shall not incur any liability under the Statutes for making any payments or deliveries in accordance with this Order or failing to withhold amounts, ordered or permitted hereunder, and the Monitor shall not have any liability for any of the Company's tax liabilities regardless of how or when such liabilities may have arisen, and is hereby forever released, remised and discharged from any claims against either the Monitor under or pursuant to the Statutes or otherwise at law, arising as a result of the distributions and deliveries in accordance with this Order, and any claims of such nature are hereby forever barred.
- [8] The draft paragraph asks me to make findings of fact and mixed fact and law that in distributing the debtor's money to its creditors, the Monitor is not a "representative" of the debtor; that in making the

approved distributions, it is not “distributing” under the tax statutes; that the Monitor shall have no liability under the tax statutes; and then, in case that is not enough, to grant it full and final releases of any liability it might otherwise incur under the tax statutes despite all the foregoing.

- [9] I have no basis in evidence or law to make the requested findings or orders however.
- [10] I know of no basis to find that paramountcy invalidates the provincial tax laws or that the CCAA renders the federal tax laws of general application inapplicable. This is doubly the case since counsel for the Monitor confirms the laws apply to receivers as representatives of insolvent taxpayers. (Section 159 (3) of *the Income Tax Act* expressly exempts trustees in bankruptcy from personal liability under that section.)
- [11] A Monitor watching over a debtor’s active restructuring process under the CCAA has little in common with a receiver or a trustee in bankruptcy. However, once the debtor’s business was sold, there was no functioning debtor left. The business was gone and the debtor’s undertaking was continued under a new name only. The Monitor’s powers were increased so that it could manage the debtor’s remaining pre-filing assets and liabilities such as they may be.
- [12] One might question whether in carrying out a distribution process in a liquidating CCAA proceeding, in the absence of any functioning debtor, a Monitor may be fulfilling a role typical of a receiver or trustee in bankruptcy. As noted above, there is no receivership or bankruptcy here as a cost saving measure.
- [13] I am not finding that the Monitor is subject to any of the particular laws listed in the draft exemption paragraph cited above. But neither am I in a position to rule that is not subject to one or more of them. That decision needs generally to await a proceeding in which the issue is raised.
- [14] I am prepared to revisit this issue on notice to the various taxation authorities. I understand that CRA was served with the motion. But service on the CRA *qua* creditor is not necessarily the same as advising its policy branch that the court is being asked to exempt someone from the tax and withholding obligations in various federal taxation and related statutes.

- [15] If the Monitor can procure the consents of the taxation agencies that oversee the statutes from which it seeks exemption, that would be weighty. Or, if this protection is really an important issue, perhaps it will be a basis to convert the rump *CCAA* proceeding into a formal bankruptcy.
- [16] Finally, I note that declining to provide the Monitor with extra exemptions from statutes of general application has no impact or prejudice upon the various protections that the Monitor already enjoys and continues to enjoy under the *CCAA* and its appointment orders.
- [17] The Monitor continues to carry these proceedings in good faith and with due diligence. It is fair and reasonable to extend the stay to June 30, 2026 as sought by the Monitor.



FL Myers J

Date: January 30, 2026

Justice FL
Myers

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